

Planning Commission Date: October 13, 2004

Item No.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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**TITLE:** **DISCUSSION OF POTENTIAL ZONING TEXT AMENDMENTS**

**Proposal:** Discussion of potential zoning amendments for adding tutoring centers as conditional uses in the Highway Service District and adding a distance requirement to quasi-public uses in the Industrial Districts.

**Location:** Highway Service and Industrial zoning districts citywide

**RECOMMENDATION:** **Provide direction to staff.**

**Attachments:** Zoning Ordinance Section 21 - Highway Service

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### DISCUSSION

#### **Tutoring Centers**

An increase in the demand for tutoring centers within the City spurred a zoning text amendment in May of 2003 that added tutoring centers to the General Commercial and Town Center zoning districts as a permitted use. Prior to this amendment, the zoning code did not address tutoring centers.

Staff is considering adding tutoring centers as a conditional use in the Highway Service zoning district. This would provide more opportunity for tutoring centers to locate within the City, which is currently limited to two districts. Given the type of permitted uses in the Highway Service district a conditional use permit for tutoring centers would be appropriate.

#### **Quasi-Public Uses in Industrial Areas**

A quasi-public use is defined in the zoning ordinance as:

*"A use operated by a non-profit educational, religious, recreational, charitable, or medical institution, and having the purpose primarily of serving the general public. Such uses include churches, private schools, community, youth and senior citizen recreational facilities, private hospitals, government facilities, and the like."*

Quasi-public uses are conditional uses in all zoning districts throughout the City. Staff has recently experienced numerous inquiries and applications for this type of uses in the industrial zoning districts due to the high vacancies and reduced rents that occur in these areas since the economic downturn heavily affecting the current demand for industrial space. Staff has concerns with the loss of industrial space that would no longer be available for industrial uses when the industrial market turns around. There is also a concern that the character of business parks that have a concentration of these uses would change and no longer be attractive to some businesses.

Staff is considering imposing a 1,000-foot radius distance requirement for quasi-public uses in the three industrial zoning districts - Light Industrial, Heavy Industrial and Industrial Park. The zoning ordinance currently limits quasi-public uses in the Mixed Use zoning district within the Midtown Specific Plan by not permitting the establishment of a new quasi-public use within a 1,000 feet radius of another similar use. This is to prevent the over concentration of quasi-public uses in the downtown Main Street area, which has been rezoned to accommodate a more diverse mix of pedestrian-oriented uses, such as restaurants and retail stores. Similar to the Mixed Use district, a 1,000-foot radius distance requirement would prevent the concentration of quasi-public uses within the City's industrial areas.

#### **RECOMMENDATION**

Provide direction to staff.

## Section 21 "HS" Highway Service District

The following regulations shall apply to the HS Highway Service District. (Ord. 38.76, 8/19/65: Ord. 38 (part), 3/15/55)

### XI-10-21.01 Purpose and Intent

The HS District is intended to provide for the wide range of personal and business services primarily oriented to the automobile customer and transient residential uses such as motels or mobile home parks. It is intended to include those commercial uses which customarily locate outside of the Central Business District area and tend to require lots with well-maintained grounds. The highway service uses listed are of a relatively low customer volume. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The HS District, when appropriate, will be located along State highways and major City thoroughfares and in accordance with the adopted City of Milpitas General Plan. (Ord. 38.76, 8/19/76: Ord. 38 (part), 3/15/55)

### XI-10-21.02 Uses Permitted

The following uses are permitted in the HS Districts:

21.02-1 Adult Businesses, subject to the provisions of the Adult Business Ordinance, Title III, Chapter 4 and the provisions of Subsection 54.18.

21.02-1.1 Advertising signs and advertising structures subject to compliance with provisions of the adopted City of Milpitas Sign Ordinance. (Chapter 30 of Title XI)

21.02-2 Auto and truck rental agency.

21.02-3 Auto, truck and boat sales with accessory repairs and services.

21.02-4 Auto sales, outdoor (new and used cars in operable condition only).

21.02-5 Appliance repair.

21.02-5(a) Banks and similar financial institutions.

21.02-6 Blueprint and photocopying plants.

21.02-6-1 Bowling alley.

21.02-7 Business or language schools, correspondence schools.

21.02-8 Canvas and metal awning shops.

21.02-9 Commercial art studios.

21.02-9.1 Commercial athletic facilities, conducted wholly within a building, such as but not limited to health spas and gyms; tennis, handball or racquetball, etc.

21.02-10 Commercial laboratories, analytical chemists.

21.02-11 Dancing schools.

21.02-12 Diaper service.

21.02-13 Disinfection and exterminating services.

21.02-14 Driving schools.

21.02-14-1 Eating establishments not serving alcoholic beverages.

21.02-15 Electric and neon sign shops.

21.02-16 Fire house.

21.02-17 Food storage lockers.

21.02-18 Fraternal or union halls and offices.

21.02-19 Furniture store.

21.02-20 Deleted by Ord. 38.551.

- 21.02-21 House trailer sales and rentals.
- 21.02-22 Janitorial services and window cleaning services.
- 21.02-23 Landscape contractors and nurseries.
- 21.02-24 Laundries and dry cleaning plants.
- 21.02-24-1 Medical and dental clinics, laboratories, and offices.
- 21.02-25 Deleted by Ord. 38.591.
- 21.02-26 Newspaper printing.
- 21.02-26.1 Deleted by Ord. 38.688.
- 21.02-26.2 Offices (business, professional, or administrative).
- 21.02-27 Print shops.
- 21.02-28 Radio stations.
- 21.02-29 Rental cars, trucks, trailers, tools and equipment, sickroom supplies, costumes, etc.
- 21.02-30 Repairs, rental and distribution of office or business equipment.
- 21.02-31 Sauna and steam baths.
- 21.02-32 Secondhand or thrift stores.
- 21.02-33 Self-service laundries and dry cleaning establishments.
- 21.02-34 Sign painters shop, also electronic and neon sign shops.
- 21.02-35 Topographers and typesetting shops.
- 21.02-36 Trading stamps and redemption stores.
- 21.02-37 Used car lots.
- 21.02-38 Venetian blind shop.
- 21.02-39 Other uses similar to the above as provided for in Subsection XI-10-54.02. (Ord. 38.760 (2), 9/17/02; Ord. 38.711 (part), 8/20/96; Ord. 38.694(2) (part), 10/4/94; Ord. 38.688 (part), 3/15/94; Ord. 38.591, 11/5/85; Ord. 38.551 (part), 9/7/82; Ord. 38.202, 5/70; Ord. 38.123, 5/7/68; Ord. 38 (part), 3/15/55)

#### XI-10-21.03 Uses Permitted Subject to Securing a Conditional Use Permit

As provided for in Section XI-10-57.

21.03-1 Automobile service stations with or without service bays. Entrances to the service bays shall not be open to the street but shall be so designed to face the rear or interior side property line.

21.03-1.1 Arcades, with mechanical or electronic games or games of skill or science, excluding Adult Arcades, as defined in Subsection 54.18.

21.03-2 Auction halls.

21.03-3 Auto repair shops of all kinds -- shops for tires, radiators, paint, body, glass, brakes, upholstery and other types.

21.03-3.1 Billiard center.

21.03-4 Building contractors -- yards and offices.

21.03-5 Cabinetmakers shop.

21.03-5.1 Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

21.03-6 Car wash.

21.03-6.1 Churches.

21.03-6.2 Commercial fueling facility.

21.03-7 Commercial recreation, not conducted wholly within a building, such as but not limited to miniature golf, go-cart tracks, batting range, skateboard park, water slide, etc.

21.03-8 Craft shops.

21.03-9 Drive-in restaurants.

21.03-10 Eating or drinking establishments serving alcoholic beverages or providing dancing or live entertainment or restaurants which include internet usage for customers, excluding Adult Businesses as defined in Subsection 54.18.

21.03-11 Funeral homes, morticians.

21.03-12 Massage establishments.

21.03-13 Local transportation service facilities (taxi, parcel service, ambulance, armored car and van storage).

21.03-14 Motels or Hotels, excluding Adult Motels/Hotels, as defined in Subsection 54.18.

21.03-15 Pet hospitals and veterinarians.

21.03-16 Deleted by Ord. 38.551.

21.03-17 Public utility service yard, garages, and substations.

21.03-18 Retail building material and lumber yards.

21.03-19 Residential buildings.

21.03-19.1 Shooting range, indoor.

21.03-20 Temporary tract signs with the exception that no tract signs shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.

21.03-20.1 Theatre, outdoor drive-in.

21.03-21 Vehicle-oriented window service facility. (Ord. 38.761 (part), 5/20/03; Ord. 38.760 (3), 9/17/02; Ord. 38.711 (part), 8/20/96; Ord. 38.702 (1) (part), 8/15/95; Ord. 38.694 (2) (part), 10/4/94; Ord. 38.688 (part), 3/15/94; Ord. 38.662 (A) (part), 1/8/91; Ord. 38.654 (A) (part), 3/20/90; Ord. 38.591, 1-1/5/85; Ord. 38.551 (part), 9/7/82; Ord. 38.395, 9/20/77; Ord. 38.207, 11/17/70; Ord. 38.204, 11/3/70; Ord. 38.195, 1/6/70; Ord. 38.180, 6/17/69; Ord. 38.123, 5/7/68; Ord. 38.76, 8/19/65; Ord. 38 (part), 3/15/55)

#### XI-10-21.04 Development Standards

21.04-1 Height of Structures. No limitation subject to compliance with all additional City Codes and Ordinances. This Section does not include freestanding sign heights which are regulated by Ordinance No. 124, Sign Ordinance, enacted as Chapter 30, Title XI of the Milpitas Municipal Code.

21.04-2 Lot Area.

(a) Those lots having frontage on a major street (four (4) or more moving traffic lanes) shall have a lot area no less than one and one-half (1 1/2) acres.

(b) Those lots having frontage on a non-major street (two moving traffic lanes) shall have a lot area no less than twenty thousand (20,000) square feet.

(c) The following specific land uses may locate on parcels no less than ten thousand (10,000) square feet regardless of street frontage:

(1) Auto service (gas) stations.

(2) Eating and drink establishments, including drive-in restaurants.

21.04-3 Minimum Lot Width.

(a) Those lots having frontage on major street (four or more moving traffic lanes) shall have a lot width of no less than two hundred fifty (250) feet measured at front property line abutting the major street.

(b) Those lots having frontage on a non-major street (two moving traffic lanes) shall have a lot width of no less than one hundred twenty-five (125) feet.

(c) Those specific land uses allowed to locate on parcels no less than ten thousand (10,000) square feet in an area shall have a lot (or parcel) width of no less than one hundred (100) feet.

21.04-4 Front Yard. There shall be no front yard required except that those parcels which have frontage on major (four moving lanes or more) streets shall be required to have a fifty (50) foot front yard. Twenty-five (25) percent of the required front yard shall be landscaped.

21.04-5 Rear Yards and Side Yards.

(a) Deleted by Ord. 38.473;

(b) Where the rear or side of a Commercial lot abuts a Residential District there shall be a rear yard or a side yard of not less than fifteen (15) feet in depth or width, or both.

21.04-5.1 Floor Area Ratio. Subject to XI-10-2.38.2, the Floor Area Ratio is .50 (50%).

21.04-6 Traffic Hazards. In every case where a parcel is located in an "HS" District that is combined with the Special "S" Zoning Area, the Planning Commission shall review and approve, among other factors, the specific location and amount of access ways with regard toward the elimination or reduction of any potential traffic hazards. In addition, the Commission may require the construction of temporary median barriers where deemed necessary based on ultimate street construction. (Ord. 38.713 (1) (part), 12/3/96; Ord. 38.637 (part), 8/16/88; Ord. 38.185, 8/5/69; Ord. 38.76, 8/16/65; Ord. 38 (part), 3/15/55)

#### XI-10-21.05 Off-Street Parking Requirements

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking shall be improved as provided for in Subsection 54.03. (Ord. 38.760 (3), 9/17/02; Ord. 38.384, 10/26/76)

21.05-1 Repealed by Ord. 38.384, 10/26/76.

21.05-2 Repealed by Ord. 38.384, 10/26/76.

21.05-3 Repealed by Ord. 38.384, 10/26/76.

21.05-4 Repealed by Ord. 38.384, 10/26/76.

21.05-5 Repealed by Ord. 38.384, 10/26/76.

21.05-6 Repealed by Ord. 38.384, 10/26/76.

21.05-7 Repealed by Ord. 38.384, 10/26/76.

(Ord. 38.384 (part), 10/26/76; Ord. 38 (part), 3/15/55)

#### XI-10-21.06 Areas for Collecting and Loading Recyclable Materials

There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.15 of this Chapter. (Ord. 38.687 (1) (part), 1994)

#### XI-10-21.07 Standard Conditions

21.07-1 All uses and operations, except off-street parking and loading, reverse vending machines or mobile recycling units and other uses and activities customarily conducted out-of-doors, shall be conducted within a completely enclosed building.

21.07-2 All outdoor storage areas of such things as trash and materials shall be within a completely enclosed building or behind a visually obscure solid wall or tight board fence a minimum six (6) feet in height. (Ord. 38.760 (3), 9/17/02; Ord. 38.629 (A) (part), 10/27/87; Ord. 38.76, 8/19/65; Ord. 38 (part), 3/15/55)